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April 22, 1976

Robert A. Jantzen, Director
Arizona Game and Fish Department
2222 West Greenway Road
Phoenix, Arizona 85023

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Dear Mr. Jantzen:

In your letter of April 14, 1976, you posed the following questions:

1. Does A.R.S. § 17-340.A prohibit the Game and Fish Commission from requiring an individual whose hunting license has been revoked, to complete a firearms safety course pursuant to A.R.S. § 15-1073 as a condition to the issuance or renewal of his hunting license, if more than 5 years have elapsed since the individual's license was suspended or revoked?
2. Can the Game and Fish Commission require an individual, whose hunting and fishing licenses have been revoked, to satisfactorily complete a firearms safety course pursuant to A.R.S. § 15-1073.A before he is allowed to again obtain a fishing license?

Answers: 1. No.
2. No.

A.R.S. § 17-304.A provides:

Upon conviction and in addition to other penalties prescribed by this title, the commission, after public hearing, may revoke or suspend a license issued to any person under this title, and deny him the right to secure another license to take wildlife for a period of not to exceed five years. . . .

(Emphasis supplied).

On February 21, 1970, the Commission revoked an individual's hunting and fishing license for a period of two years. It also required that he satisfactorily complete a firearms safety course and show the department a certificate of completion of the course prior to being allowed to obtain his hunting and fishing privileges



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pursuant to A.R.S. § 15-1073.A. That statute reads in part as follows:

. . . , but the game and fish commission may require any hunter whose hunting license has been revoked or suspended to show a certificate of completion of such training course as a condition to issuance or renewal of a license.

The person has failed to attend the firearms safety course and is currently insisting that hunting and fishing licenses be issued to him since over five years have elapsed since his licenses were revoked.

The primary rule of construction of statutes is to ascertain and declare the intention of the Legislature and to carry such intention into effect to the fullest degree. 73 Am.Jur.2d, Statutes, § 145. In determining legislative intent the Arizona Supreme Court in Peterson v. Sundt, 67 Ariz. 312, 195 P.2d 158 (1948), said:

The statutes should be construed in the light of the evil which they were designed to remedy.

67 Ariz. at 316.

See also City of Mesa v. Salt River Project Agr. Imp. & Power Dist., 92 Ariz. 91, 373 P.2d 722 (1962).

Both statutes attempt to reduce the number of injuries and deaths resulting from the careless and unsafe use of firearms.

A statute that is designed to remedy a defect in a preexisting statute or remove a condition that is inimical to the public welfare is "remedial" in nature. As stated by the Arizona Supreme Court in Sellinger v. Freeway Mobile Home Sales, Inc., 110 Ariz. 573, 521 P.2d 1119 (1974):

. . . statutes which are designed to redress existing grievances and introduce regulations conducive to the public good are remedial. . . .

110 Ariz. at 576.

A.R.S. § 15-1073 was promulgated after A.R.S. § 17-340 and clearly introduces regulations conducive to the public good, therefore it may be classified as a remedial statute. As a remedial statute, A.R.S. § 15-1073 should be liberally construed so as to effectuate its object and purpose. Lande v. Jurisich, 59 Cal.App.2d 613, 139 P.2d 657 (1943). See also 82 C.J.S., Statutes, § 388.

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If the five year limitation in A.R.S. § 17-340 is interpreted to restrict the Game and Fish Commission's authority to refuse to issue a hunting license until completion of a firearms safety course, the Commission's ability to promote the safe use of firearms would suffer. It is doubtful that such a result was intended by the Legislature. It is more likely that the five year limitation was included because it was deemed to be sufficient punishment for the offenses listed in A.R.S. § 17-340. A.R.S. § 15-1073 does not impose additional punitive measures for violations of A.R.S. § 17-340

Another rule of statutory construction is that,

. . . the court must, if sound reason
and good conscience will allow, con-
strue statutes in harmony.

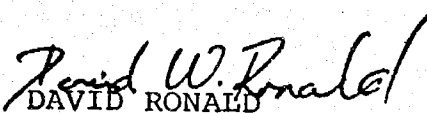
S. H. Kress & Co. v. Superior Court
66 Ariz. 67, 74, 182 P.2d 931 (1947)

In light of the apparent legislative intent, and the duty to construe statutes harmoniously if possible, it would appear that A.R.S. § 17-340 does not prevent the Commission from refusing to issue a hunting license to an individual whose license has been revoked or suspended for over five years until that person completes a firearms safety course.

With regard to the second question, it is clear that the individual cannot be required to take the firearms safety course before he can obtain a fishing license. The license referred to in A.R.S. § 15-1073.A is clearly a hunting license, not a fishing license.

Very truly yours,

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